

## **REMARKS**

In response to the Office Action dated November 24, 2009, the Assignee respectfully requests reconsideration based on the above amendments and on the following remarks.

Claims 48-53, 58-63, and 68-73 are pending in this application. Claims 54-57, 64-67, and 74-77 were previously canceled without prejudice or disclaimer. Claims 1-47 were previously canceled without prejudice or disclaimer.

### **Objection to Claim 68**

The Office objected to claim 68. Claim 68, though, has been amended, so the Office is respectfully requested to re-examine this claim in its current presentation.

### **Rejection of Claims under § 112, first paragraph**

The Office rejected claims 48-53, 58-63, and 68-73 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Independent claims 48, 58, and 68, though, have been amended, as have their respective dependent claims. The Office is thus respectfully requested to re-examine these claims in their current presentation.

### **Rejection of Claim 48 under § 103 (a)**

Claim 48 was rejected under 35 U.S.C. § 103 (a) as being obvious over U.S. Patent Application Publication 2002/0144259 to Gutta, *et al.* in view of U.S. Patent 6,282,655 to Given.

Claim 48, though, is not be obvious over *Gutta* '259 and *Given*. Independent claim 48 recites many features that are not taught or suggested by *Gutta* '259 and *Given*. Independent claim 48, for example, recites "*determining ... conflicting actions to be taken based on the presence indicator signal and a source of the presence indicator signal*" and "*retrieving a*

*conflict resolution rule to determine which of the conflicting actions predominates.”* Independent claim 48 also recites “*sending a predominate action to the television.*” Support may be found at least at paragraphs [0041] and [0043] of the as-filed application.

These features are not obvious over *Gutta* ‘259 and *Given*. *Gutta* ‘259 discloses an entertainment system that uses audio/visual devices to detect a user. See U.S. Patent Application Publication 2002/0144259 to Gutta, *et al.* at paragraphs [0005], [0012], and [0018]. When users are detected, a composite profile is created. See *id.* at paragraph [0020]. *Given* describes a motion detector that sends a signal to a keyboard interface. See U.S. Patent 6,282,655 to Given at column 2, lines 5-20. If the user is detected, but not typing on the keyboard, the keyboard interface sends a “harmless keystroke” to the computer to prevent security software from locking the terminal. *Id.* at column 2, lines 50-62. Still, though, the combined teaching of *Gutta* ‘259 and *Given* fails to teach or suggest all the features of independent claim 48. One of ordinary skill in the art, then, would not think that independent claim 48 is obvious over *Gutta* ‘259 and *Given*. The Office is respectfully requested to remove the § 103 (a) rejection of this claim.

**Rejection of Claims 49-51 & 53 under § 103 (a)**

Claims 49-51 and 53 were rejected under 35 U.S.C. § 103 (a) as being obvious over *Gutta* ‘259 and *Given* and further in view of U.S. Patent Application Publication 2002/0046099 to Frengut, *et al.* These claims, though, depend from independent claim 48. These claims, then, incorporate the same distinguishing features. As the above paragraphs explained, both *Gutta* ‘259 and *Given* fail to teach or suggest all the features of independent claim 48, and *Frengut* does not cure the deficiencies. One of ordinary skill in the art, then, would not think that claims 49-51 and 53 are obvious, so the Office is respectfully requested to remove the § 103 (a) rejection of these claims.

**Rejection of Claims 58 & 68 under § 103 (a)**

Claims 58 and 68 were rejected under 35 U.S.C. § 103 (a) as being obvious over *Gutta '259* and *Given* and further in view of U.S. Patent Application Publication 2002/0194586 to *Gutta, et al.*

Claims 58 and 68, though, are not be obvious over *Gutta '259*, *Given*, and *Gutta '586*. These independent claim recite distinguishing features that are not taught or suggested by *Gutta '259*, *Given*, and *Gutta '586*. Independent claim 58, for example, recites “*determine conflicting actions to be taken based on each user’s identity and on a source of each presence indicator signal*” and “*retrieve a conflict resolution rule that specifies which user’s identity predominates over other users’ identities.*” Independent claim 58 also recites “*select a predominate action associated with the predominate user’s identity*” and “*send the predominate action to the television.*” Support may be found at least at paragraphs [0041] and [0043] of the as-filed application. Independent claim 68 recites similar features.

At least these features are not obvious over *Gutta '259*, *Given*, and *Gutta '586*. As the above paragraphs explained, both *Gutta '259* and *Given* fail to teach or suggest all the features of independent claim 48, and *Gutta '586* does not cure the deficiencies. *Gutta '586* discloses an entertainment system that detects users. See U.S. Patent Application Publication 2002/0194586 to *Gutta, et al.* at paragraph [0018]. When users are detected, a composite profile is created. See *id.* at paragraph [0020]. Still, though, the combined teaching of *Gutta '259*, *Given*, and *Gutta '586* fails to teach or suggest all the features of independent claims 58 and 68. One of ordinary skill in the art, then, would not think that claims 58 and 68 are obvious, so the Office is respectfully requested to remove the § 103 (a) rejection of these claims.

**Rejection of Claims 59-61, 63, 69-71 & 73 under § 103 (a)**

Claims 59-61, 63, 69-71, and 73 were rejected under 35 U.S.C. § 103 (a) as being obvious over *Gutta '259*, *Given*, *Gutta '586*, and *Frengut*. These claims, though, depend from

either independent claim 58 or 68. These claims, then, incorporate the same distinguishing features. As the above paragraphs explained, *Gutta '259*, *Given*, *Gutta '586*, and *Frengut* all fail to teach or suggest all the features of independent claims 58 and 68, so one of ordinary skill in the art would not think that these claims are obvious. The Office is respectfully requested to remove the § 103 (a) rejection of these claims.

**Rejection of Claims 62 & 72 under § 103 (a)**

Claims 62 and 72 were rejected under 35 U.S.C. § 103 (a) as being obvious over *Gutta '259*, *Given*, *Gutta '586*, and *Stas*. These claims, though, depend, respectively, from independent claims 58 and 68. Because the combined teaching of *Gutta '259*, *Given*, *Gutta '586*, and *Stas* fails to teach all the features of independent claims 58 and 68, one of ordinary skill in the art would not think that claims 62 and 72 are obvious. The Office is thus respectfully requested to remove the § 103 (a) rejection of these claims.

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If any questions arise, the Office is requested to contact the undersigned at (919) 469-2629 or [scott@scottzimmerman.com](mailto:scott@scottzimmerman.com).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott P. Zimmerman", with a stylized flourish at the end.

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